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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/729,484	12/04/2000	Connie T. Marshall	ODS/018	5978
1473	7590	10/17/2005	EXAMINER	
FISH & NEAVE IP GROUP ROPES & GRAY LLP 1251 AVENUE OF THE AMERICAS FL C3 NEW YORK, NY 10020-1105			NGUYEN, BINH AN DUC	
			ART UNIT	PAPER NUMBER
			3713	

DATE MAILED: 10/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/729,484

Applicant(s)

MARSHALL ET AL

Examiner

Binh-An D. Nguyen

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-3, 5-7, 9-13, 15-17, 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4, 8, 14 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/2/05</u> | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

The Amendment and the Information Disclosure Statement filed February 16, 2005 and March 2, 2005, respectively, have been received. According to the Amendment, claims 4-10 and 14-20 have been amended. Currently, claims 1-20 are pending in this application, wherein claims 1-3, 5-7, 9-13, 15-17, 19, and 20 have been previously withdrawn due to non-elected inventions. Claims 4, 8, 14, and 18 are hereby examined on the merits. Acknowledgment has been made.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 4, 8, 14, and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Brenner et al. (6,004,211).

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in

the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Referring to claims 4 and 14, Brenner et al. teaches a system and method of providing a user interface for interactive wagering, comprising: a user input device (122)(Figure 1) that accepts user inputs (2:32-67; 8:15-28); and control circuitry (140)(Figure 2)(7:55-67) for providing a user with an opportunity to create a default wager as one of the user inputs (player starts the interactive racing game by selecting race tracks, races, wager types, and wager amount, 9:6-10:35, Fig.3), wherein the default wager includes at least one default setting (the setting that could be reused, i.e., "duplicate a wager" (12:45-50), that displays default selections for a new wager based on the default wager (i.e., the wager including selected race track, race, wager types, and wager amount that have already been selected by the player selection, (9:49-10:24)), wherein the new wager requires selection of at least a track, a race, a bet type, a bet amount and a horse (9:6-10:35), that provides the user with an opportunity to change selections for the new wager from at least one of the default selections to another selection (selecting "duplicate a wager" or "delete" wager, and that provides the user with an opportunity to place a new wager either by duplicated the created wager or creating another new wager (12:39-51)(Figs.8-19).

Referring to claims 8 and 18, Brenner et al. teaches the at least one default setting of the default wager is a previously selected track (using the hot button to bet on the next race and by pass selection steps 196, 204, and 213)(Figure 3 and column 17, lines 10-26, or using the "duplicate a wager" feature).

### ***Response to Arguments***

Applicant's arguments filed February 16, 2005 have been fully considered but they are not persuasive. The applicant argued that Brenner et al. does not teach the limitations<sup>of</sup> claims 4 and 14 (applicant's remark, page 12, lines 1-13) deemed not to be persuasive. Brenner et al. teaches an interactive wagering system that enables the player to create a default setting type of wager that could be reused such as duplicating a wager or delete undesired wager; and further, provides the user an opportunity to place a new wager either by duplicating the already created wager or creating another new wager. Please see column 12, lines 39-51. Thus, Brenner et al. fully anticipates the claimed limitations of claims 4 and 14.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wilson et al. (5,411,258) teaches an interactive video horse-race game comprising data storage and retrieval means for storing and retrieving racing and wagering information.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh-An D. Nguyen whose telephone number is 571-272-4440. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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**XUAN M. THAI**  
**SUPERVISORY PATENT EXAMINER**  
TC3700